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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 EMMENTALY BUSINESS, INC.,

9 Plaintiff,

10 v.

11 SINORICHES GLOBAL LTD and
12 SINORICHES ENTERPRISES CO., LIMITED,

13 Defendants.

No. C12-0464RSL

ORDER DENYING MOTION FOR
ORDER AUTHORIZING RULE B
ATTACHMENT OF ASSETS

14 This matter comes before the Court on plaintiff's "Motion for Order Authorizing
15 Rule B Attachment of Assets" (Dkt. # 2). Plaintiff seeks the attachment of Sinoriches
16 Enterprises' assets held within this district, namely any and all fuel held on the vessel DEEP
17 SEAS. In support of this request, plaintiff has provided a verified complaint (Dkt. # 1) and the
18 affidavit of a legal assistant employed by plaintiff's counsel (Dkt. # 3).

19 Pursuant to Local Admiralty Rule 105, a claim to property must be verified by
20 plaintiff's officer or attorney. If an authorized corporate officer is not present in the district,
21 plaintiff's duly-authorized agent may verify the claim. An agent must, however, "state the
22 sources of the knowledge, information and belief contained in the pleading or claim . . . [,] state
23 why verification is not made by the party or an authorized corporate officer, and state that the
24 affiant is authorized so to verify." The verification submitted with the complaint does not
25 satisfy these requirements. Mr. Pittas is not an officer of Emmentaly Business, Inc., and has
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1 not provided information that would allow the Court to evaluate his authority to speak or his
2 knowledge of the events described.

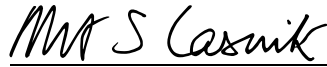
3 Pursuant to Supplemental Admiralty Rule B(1)(b), “[t]he plaintiff or the plaintiff’s
4 attorney must sign and file with the complaint an affidavit stating that, to the affiant’s
5 knowledge, or on information and belief, the defendant cannot be found within the district.”
6 The affidavit must also “state with particularity the efforts made to locate the defendant in the
7 district.” Local Admiralty Rule 115(b). Only if the complaint and affidavit satisfy the
8 requirements of Rule B will an order of attachment issue. Plaintiff has not provided the
9 affidavit of a corporate officer or its attorney. Rule B requires the affirmation of specific
10 individuals, and the employee of an attorney is not one of them. Even if the affiant had
11 declared herself authorized to speak on behalf of plaintiff or her employer, the form of the
12 affidavit is defective. Although the affiant declares that she was “first duly sworn” (Dkt. # 3 at
13 1), plaintiff’s counsel acted as the notary and does not attest to the identity of the affiant or that
14 the affiant acknowledged an obligation to tell the truth (Dkt. # 3 at 2).¹ Because the affidavit
15 is, in fact, unsworn, it would have to be executed under penalty of perjury in order to be
16 accepted as evidence of the matters stated therein. 28 U.S.C. § 1746. See also U.S. v. Bueno-
17 Vargas, 383 F.3d 1104, 1111 (9th Cir. 2004) (finding that a sworn oath or a statement under
18 penalty of perjury are required because “it is a signal that the declarant understands the legal
19 significance of the declarant’s statements and the potential for punishment if the declarant
20 lies.”). The affidavit is, therefore, defective.

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22 The Court has reviewed the verified complaint and affidavit and finds that the
23 conditions of Rule B are not met. The motion for order authorizing an attachment of assets
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25 ¹ The notary’s certification is written as if Mr. Moure, plaintiff’s counsel, were both the affiant
26 and the notary.

1 (Dkt. # 2) is, therefore, DENIED.

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3 Dated this 20th day of March, 2012.

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5 Robert S. Lasnik
6 United States District Judge
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